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**IN THE UNITED STATES PATENT  
AND TRADEMARK OFFICE**

Appln No. : 10/632,746  
Applicant(s): Hiroaki MIHO et al.  
Filed : August 1, 2003  
For : IMAGE FORMING APPARATUS  
AND TONER USED THEREIN  
Art Unit : 1756  
Examiner : Mark A. Chapman  
Docket No. : 03464/HG  
Confirm. No.: 3870  
Customer No.: 01933

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Attorney: MARSHALL J. CHICK

Dated: January 20, 2006

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**REQUEST FOR WITHDRAWAL OF  
FINALITY OF LAST OFFICE ACTION**

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
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S I R :

This is a request that the finality of the last Office  
Action be withdrawn so that applicants can amend the claims and  
take other action as a matter of right rather than under the  
restriction of Rule 116.

The reason for making the last rejection final even though a  
new ground of rejection was issued, was that "applicants'  
amendments necessitated the new ground of rejection which was  
presented in the last Office Action." Applicants submit that

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their amendments did not change the scope of the claims but rather changed an unnecessarily verbose description of the invention as presented in claim 1 and claim 15 to a more direct recitation.

Referring especially to the last paragraph of both claims 1 and 15, the original description referred to development using toner in which, out of five materials (the five materials were listed as silica, titania, barium sulfate, fine polymer particles, and a lubricant) only materials which did not include the fine polymer particles or did not include the barium sulfate were used.

It is understood that the Examiner mis-interpreted the claim as requiring that all five materials be present. However, such an interpretation ignores the recitation "not including either the fine polymer particles or the barium sulfate."

The intended invention to be claimed was to be the second toner and the third toner as described on page 13, lines 12-18 of the specification wherein, in the second toner, the toner does not contain fine polymer particles while in the third toner, the toner does not contain barium sulfate.

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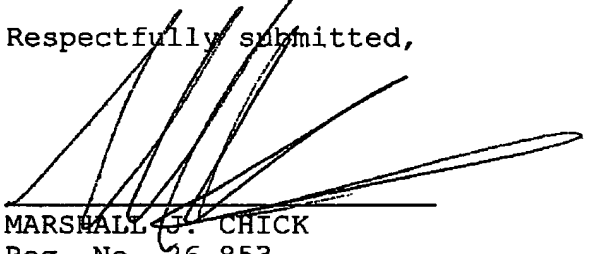
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The amendment to the claim redrafts this recitation to cite the three necessary components and to include, optionally, either the fine polymer particles or the barium sulfate. That is, the original recitation was redrafted to set forth the invention more positively. However, the scope of the subject matter was not changed and, therefore, it is submitted that the AMENDMENT did not necessitate the new ground of rejection.

Withdrawal of the indication of finality of the last Office Action is therefore requested.

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Respectfully submitted,

  
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